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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Susumu NODA et al.

Group Art Unit: 2883

Application No.: 10/537,119

Examiner: M. MOONEY

Filed: June 3, 2005

Docket No.: 123456

For: TWO-DIMENSIONAL PHOTONIC CRYSTAL SLAB HAVING THREE-DIMENSIONAL LOCAL STRUCTURE

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In reply to the May 16, 2007 Restriction Requirement, Applicants provisionally elect Group I, claims 1-12, with traverse.

The Office Action alleges that the only common special technical feature is the refractive index material. However, the device and method claims also are both directed to a two-dimensional photonic crystal slab having a three-dimension local structure. The Office Action has not established that these are not so linked as to form a single general inventive concept. Moreover, the Office Action has not set forth any evidence to show an undue burden in searching device claims 1-12 and method claims 13-14, such as separate classification in the art.

It is thus respectfully submitted that the subject matter of all claims 1-14 is sufficiently related that a thorough search for the subject matter of any one Group of claims would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully

submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

Stephen P. Catlin  
Registration No. 36,101

JAO:SPC/jnm

Date: June 15, 2007

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

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